IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

WP(C).No. 36619 of 2004(H)

PETITIONER:

A.K.CHANDRIKA, ANANDA MANDIRAM,
NOORANADU.

BY ADV. SRI.A.N.RAJAN BABU
SMT.K.SUNITHA VINOD

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY THE SECRETARY,**
   GENERAL EDUCATION (B) DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVNANTHAPURAM.

2. **THE COMMISSIONER FOR GOVERNMENT**
   EXAMINATIONS, GOVERNMENT OF KERALA,
   THIRUVANANTHAPURAM.

3. **THE REGISTRAR OF CO-OPERATIVE SOCIETY,**
   KERALA CO-OPERATIVE DEPARTMENT, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI.O.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.36619/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE BIRTH CERTIFICATE OF THE PETITIONER ISSUED BY PALAMEL PANCHAYAT.

EXT.P2:- COPY OF THE BIRTH CERTIFICATE OF THE IMMEDIATE SISTER OF PETITIONER K.RADHAMANI.

EXT.P3:- COPY OF THE BIRTH CERTIFICATE OF K.SAROJA, PETITIONER SISTER.

EXT.P4:- COPY OF THE BIRTH CERTIFICATE OF K.RAVEENDRAN NATHEN.

EXTP5:- COPY OF THE BIRTH CERTIFICATE OF K.JAGADAMMA.

EXT.P6:- COPY OF THE BIRTH CERTIFICATE OF K.SURENDRAN.

EXT.P7:- COPY OF THE BIRTH CERTIFICATE OF K.PRASANNAN.

EXT.P8:- COPY OF THE BIRTH CERTIFICATE OF K.PRASAD.

EXT.P9:- COPY OF THE RELEVANT EXTRACT OF THE S.S.L.C. BOOK OF THE PETITIONER.

EXT.P10:- COPY OF THE PROCEEDINGS OF THE COMMISSIONER FOR GOVERNMENT EXAMINATIONS DT.13.7.81.

EXT.P11:- COPY OF THE G.O.(MS) NO.508/87/G.EDN. DT.19.2.87 ISSUED BY THE 1ST RESPONDENT.

EXT.P12:- COPY OF THE G.O. MS. NO.38289/G2/94/G.EDN.

EXT.P13:- COPY OF THE REPRESENTATION WITHOUT ANNEXURES SUBMITTED ON 23.6.03.

EXT.P14:- COPY OF THE DETAILED STATEMENT DT.12.8.04 SUBMITTED NOTE SUBMITTED BEFORE THE DISPOSAL OF EXT.P13 REPRESENTATION.

EXT.P15:- COPY OF THE ARGUMENT NOTE SUBMITTED BY THE COUNSEL FOR THE PETITIONER.

EXT.P16:- COPY OF THE G.O.(RT) NO.4713/04/G.EDN. DT.30.10.04 ISSUED BY THE 1ST RESPONDENT.

EXT.P17:- COPY OF THE RELEVANT EXTRACT OF THE S.S.L.C BOOK OF THE BROTHER OF THE PETITIONER.

/TRUE COPY/

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THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).No. 36619 OF 2004-H

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Dated this the 3rd day of April, 2007.

JUDGMENT

Petitioner, a Government servant, applied under Rule 3 Chapter VI, KER for correction of date of birth. Her SSLC book shows 24-12-1954 as her date of birth. She applied for correction of the date of birth as 14-1-1957. The Commissioner for Government Examinations rejected that request as per Ext.P10. That order was confirmed by the Government as per Exts. P11 and P16.

2. The application of the petitioner for correction of date of birth was not treated as out of time and was considered on merits. The decisions taken by the statutory authorities, including Government are on the merits of the claim. However, it appears that considerable confusion was created by the petitioner or her father during the course of those proceedings because the affidavit of her parent

tendered before the authorities contradicted some of the certificates issued by statutory authorities on the basis of which the claim for correction could have been decided. Therefore, to render justice in this situation, I will make reference to the authentic documentary evidence placed by the petitioner for consideration in this writ petition.

3. Kallyani and Kuttappan have eight children. Going by their date of birth, they can be enumerated as hereunder:

1. K.Raveendra Nathen	(30.10.1121)i.e.	14.6.1946
2. K.Jadadamma	(29.5.1124)i.e.	12.1.1949
3. K.Surendran		20.5.1952
4. K.Radhamani		2.1.1955
5. A.K.Chandrika		14.1.1957
6. K.Saroja		25.3.1959
7. K.Prasannan		13.9.1961
8. K.Prasad		30.5.1964

The date of birth of the aforesaid persons can be proved by reference to Exts.P4, P5, P6, P2, P1, P3, P7 and P8

respectively.

4. The controversy would be relating to the petitioner at Sl.No.5 in the aforesaid list of eight children. According to her, she was born on 14-1-1957. Ext.P1 is certain extract of the Birth Register. It shows that the name of the child is A.K.Chandrika and the parents are Kuttappan and Kallyani. The birth is registered on 23-1-1957. It is issued from the Register of Births maintained by the competent authority for Palamel Panchayat of Mavelikara Tahsil in Alappuzha District of the State of Kerala. That is an authentic statutory document. To cross-check its veracity, Ext.P2 would show that Radhamani, the petitioner's immediate elder sister was born on 2-1-1955 and Saroja, the immediate younger sister was born on 25-3-1959. If the date of birth of the petitioner is 24-12-1954 as is presently shown in her SSLC book, the difference in age between her elder sister Radhamani and the petitioner would be less than one month and the petitioner would be elder to Radhamani. Even if I were to assume that Radhamani is an younger sister of the petitioner Chandrika, the age difference cannot be just a month, going by the

minimum gestation period which has been recognised not only by science but by quite a number of decisions by the Apex Court as well as different High Courts. Under such circumstances, I find that it is absolutely necessary that the statutory authority adverts to the aforesaid facts and materials which were, obviously, not appropriately placed before it for consideration.

For the aforesaid reasons, the impugned decisions contained in Exts.P10, P11, P12 and P16 are quashed and it is directed that the request of the petitioner for correction of date of birth entered in her SSLC book would be taken up, considered and disposed of after adverting to the entire materials on record and having regard to what is stated above. Let that be done by the second respondent within four months from the date of receipt of a copy of this judgment. The question of entitlement of the petitioner for consequential correction of the service records is left open.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-